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| Notice of Allowability | Application No. | Applicant(s) | |
| | 09/632,215 | BALACHANDRAN ET AL. | |
| | Examiner | Art Unit | |
| | Robert W. Wilson | 2661 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/8/05.
2. ☒ The allowed claim(s) is/are 13, 1-4, 7-8, 14-15, & 17-18 (Re# 1-11) & 29, 19-24, & 30-31 (Re#12-20).
3. ☒ The drawings filed on 08 July 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Bob A. Phunkulh
BOB PHUNKULH
PRIMARY EXAMINER

Art Unit: 2661

Allowable Subject Matter

1. The present is directed to a device and a method which prioritizes test signals based upon achievable data rate to a downlink terminal. Next transmissions of the test signal scheduled to the terminal unit based upon their priority.

The closest prior art is Sumner (U.S. Patent No.: 6,091,947). Sumner teaches: a base unit sends test signals to a handset or downlink terminal. The down link test signal is used by the handset to determine an achievable data rate for a message reception.

The closest prior art Sumner (U.S. Patent No.: 6,091,947) does not anticipate, disclose, or render obvious the following claim limitations:

“prioritization unit adapted to assign a priority to each downlink transmission test signal sent to a terminal unit based on an achievable data rate associated with each test signal; and an authorization unit adapted to schedule transmissions to the terminal units based on the priority of the test signal” as claimed in claim 13.

“sending a downlink transmission test signal to terminal units; assigning a priority to each transmission test signal based on an achievable data rate associated with each test signal; and scheduling transmissions to terminal units based on the priority of the transmission test signals” as claimed in claim 29.

In Addition:

Claims 1-4, 7-8, 14-15, & 17-18 are allowed because they depend upon claim 13.

Claims 19-24 & 30-31 are allowed because they depend upon claim 29.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571/272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571/273-8300.

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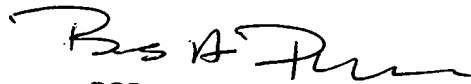
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert W Wilson
Examiner
Art Unit 2661

7/27/05

RWW



BOB PHUNKULH
PRIMARY EXAMINER